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MEMORANDUM OPINION AND ORDER
AFFIRMING DECISION OF THE
COMMISSIONER OF SOCIAL SECURITY

Pursuant to 28 U.S.C. § 636(c), both parties consented to proceed before this Magistrate Judge. After reviewing the pleadings, transcripts, and administrative record (“AR”), the Court concludes that the Commissioner’s decision must be affirmed and this case dismissed with prejudice.

BACKGROUND

Plaintiff is a 40 year-old female who applied for Supplemental Security Income on November 4, 2014, alleging disability beginning December 1, 2000. (AR 15.) The ALJ determined that Plaintiff has not engaged in substantial gainful activity since November 4, 2014, the application date. (AR 17.)

Plaintiff's claim was denied initially on February 27, 2015, and on reconsideration on August 31, 2015. (AR 15.) Plaintiff filed a timely request for hearing, which was held before Administrative Law Judge ("ALJ") Paula M. Martin on June 26, 2017, in Moreno Valley, California. (AR 15.) Plaintiff appeared and testified at the hearing and was represented by counsel. (AR 15.) Vocational expert ("VE") Susan L. Allison also appeared and testified at the hearing. (AR 15.)

The ALJ issued an unfavorable decision on September 28, 2017. (AR 15-26.) The Appeals Council denied review on July 27, 2018. (AR 1-3.)

DISPUTED ISSUES

As reflected in the Joint Stipulation, Plaintiff raises the following disputed issues as grounds for reversal and remand:

1. Whether the ALJ properly considered the applicability of Listing 14.02.
2. Whether the ALJ conducted a proper residual functional capacity assessment.
3. Whether the ALJ properly considered the consultative examiner's opinion.

STANDARD OF REVIEW

Under 42 U.S.C. § 405(g), this Court reviews the ALJ's decision to determine whether the ALJ's findings are supported by substantial evidence and free of legal error. Smolen v. Chater, 80 F.3d 1273 , 1279 (9th Cir. 1996); see also DeLorme v. Sullivan, 924 F.2d 841, 846 (9th Cir. 1991) (ALJ's disability determination must be supported by substantial evidence and based on the proper legal standards).

Substantial evidence means "more than a mere scintilla,' but less than a preponderance." Saelee v. Chater, 94 F.3d 520, 521-22 (9th Cir. 1996) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971)). Substantial evidence is "such relevant evidence as a

1 reasonable mind might accept as adequate to support a conclusion.” Richardson, 402 U.S. at
2 401 (internal quotation marks and citation omitted).

3 This Court must review the record as a whole and consider adverse as well as
4 supporting evidence. Robbins v. Soc. Sec. Admin., 466 F.3d 880, 882 (9th Cir. 2006). Where
5 evidence is susceptible to more than one rational interpretation, the ALJ’s decision must be
6 upheld. Morgan v. Comm’r of the Soc. Sec. Admin., 169 F.3d 595, 599 (9th Cir. 1999).
7 “However, a reviewing court must consider the entire record as a whole and may not affirm
8 simply by isolating a ‘specific quantum of supporting evidence.’” Robbins, 466 F.3d at 882
9 (quoting Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989)); see also Orn v. Astrue, 495
10 F.3d 625, 630 (9th Cir. 2007).

11 THE SEQUENTIAL EVALUATION

12 The Social Security Act defines disability as the “inability to engage in any substantial
13 gainful activity by reason of any medically determinable physical or mental impairment which
14 can be expected to result in death or . . . can be expected to last for a continuous period of not
15 less than 12 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). The Commissioner has
16 established a five-step sequential process to determine whether a claimant is disabled. 20
17 C.F.R. §§ 404.1520, 416.920.

18 The first step is to determine whether the claimant is presently engaging in substantial
19 gainful activity. Parra v. Astrue, 481 F.3d 742, 746 (9th Cir. 2007). If the claimant is engaging
20 in substantial gainful activity, disability benefits will be denied. Bowen v. Yuckert, 482 U.S. 137,
21 140 (1987). Second, the ALJ must determine whether the claimant has a severe impairment or
22 combination of impairments. Parra, 481 F.3d at 746. An impairment is not severe if it does not
23 significantly limit the claimant’s ability to work. Smolen, 80 F.3d at 1290. Third, the ALJ must
24 determine whether the impairment is listed, or equivalent to an impairment listed, in 20 C.F.R.
25 Pt. 404, Subpt. P, Appendix I of the regulations. Parra, 481 F.3d at 746. If the impairment
26 meets or equals one of the listed impairments, the claimant is presumptively disabled. Bowen,
27 482 U.S. at 141. Fourth, the ALJ must determine whether the impairment prevents the
28 claimant from doing past relevant work. Pinto v. Massanari, 249 F.3d 840, 844-45 (9th Cir.

1 2001). Before making the step four determination, the ALJ first must determine the claimant's
2 residual functional capacity ("RFC"). 20 C.F.R. § 416.920(e). The RFC is "the most [one] can
3 still do despite [his or her] limitations" and represents an assessment "based on all the relevant
4 evidence." 20 C.F.R. §§ 404.1545(a)(1), 416.945(a)(1). The RFC must consider all of the
5 claimant's impairments, including those that are not severe. 20 C.F.R. §§ 416.920(e),
6 416.945(a)(2); Social Security Ruling ("SSR") 96-8p.

7 If the claimant cannot perform his or her past relevant work or has no past relevant work,
8 the ALJ proceeds to the fifth step and must determine whether the impairment prevents the
9 claimant from performing any other substantial gainful activity. Moore v. Apfel, 216 F.3d 864,
10 869 (9th Cir. 2000). The claimant bears the burden of proving steps one through four,
11 consistent with the general rule that at all times the burden is on the claimant to establish his or
12 her entitlement to benefits. Parra, 481 F.3d at 746. Once this prima facie case is established
13 by the claimant, the burden shifts to the Commissioner to show that the claimant may perform
14 other gainful activity. Lounsbury v. Barnhart, 468 F.3d 1111, 1114 (9th Cir. 2006). To support
15 a finding that a claimant is not disabled at step five, the Commissioner must provide evidence
16 demonstrating that other work exists in significant numbers in the national economy that the
17 claimant can do, given his or her RFC, age, education, and work experience. 20 C.F.R.
18 § 416.912(g). If the Commissioner cannot meet this burden, then the claimant is disabled and
19 entitled to benefits. Id.

20 THE ALJ DECISION

21 In this case, the ALJ determined at step one of the sequential process that Plaintiff has
22 not engaged in substantial gainful activity since November 4, 2014, the application date. (AR
23 17.)

24 At step two, the ALJ determined that Plaintiff has the following medically determinable
25 severe impairments: systemic lupus erythematosus; pulmonary embolism; nephritis; and
26 adjustment disorder with anxiety and depressed mood. (AR 17.)

1 At step three, the ALJ determined that Plaintiff does not have an impairment or
2 combination of impairments that meets or medically equals the severity of one of the listed
3 impairments. (AR 17-19.)

4 The ALJ then found that Plaintiff has the RFC to perform a range of light work as defined
5 in 20 CFR § 416.967(b) and SSR 83-10 with the following limitations:

6 Claimant can lift and/or carry 20 pounds occasionally and 10 pounds frequently;
7 she can stand and/or walk for six hours out of an eight-hour workday with regular
8 breaks; she can sit for six hours out of an eight-hour workday with regular breaks;
9 she can occasionally climb ladders, ropes, and scaffolds; she can frequently
10 stoop, kneel, crouch, or crawl; she could frequently push and pull bilaterally; she
11 could frequently handle and finger bilaterally; she should avoid concentrated
12 exposure to extreme cold, extreme heat, fumes, odors, dusts, gases, and poor
13 ventilation; she was precluded from working around hazards such as machinery
14 or unprotected heights; she can perform simple routine work, not at a production
15 pace; and she can have occasional contact with supervisors, co-workers, and the
16 public.

17 (AR 19-25.) In determining the above RFC, the ALJ made a determination that Plaintiff's
18 subjective symptom allegations were "not entirely consistent" with the medical evidence and
19 other evidence of record. (AR 21.) Plaintiff does not challenge this finding.

20 At step four, the ALJ found that Plaintiff has no past relevant work. (AR 25.) The ALJ,
21 however, also found at step five that, considering Claimant's age, education, and RFC, there
22 are jobs that exist in significant numbers in the national economy that Claimant can perform,
23 including the jobs of marker-pricer and assembler (plastic hospital parts). (AR 25-26.)

24 Consequently, the ALJ found that Claimant is not disabled within the meaning of the
25 Social Security Act. (AR 26.)

26 DISCUSSION

27 The ALJ decision must be affirmed. The ALJ's determination that Plaintiff does not
28 meet Listing 14.02 is supported by substantial evidence. The ALJ properly considered the

1 consulting psychological examiner's opinion in assessing Plaintiff's RFC. The ALJ's RFC is
2 supported by substantial evidence.

3 **I. PLAINTIFF DOES NOT MEET OR EQUAL LISTING 14.02**

4 Plaintiff alleges that lupus, kidney problems, arthritis, and mental health problems limit
5 her ability to work. (AR 20.) She claims the above impairments cause swelling in her joints,
6 difficulty using her hands, and difficulty ambulating. (AR 20.) She contends she has difficulty
7 focusing and decreased energy. (AR 20.) She further alleges she cannot stand more than 10
8 minutes, walk more than 15 minutes, or sit more than 30-45 minutes. (AR 20.)

9 The ALJ did find that Plaintiff has the medically determinable severe impairments of
10 systemic lupus erythematosus, pulmonary embolism, nephritis, and adjustment disorder with
11 anxiety and depressed mood. (AR 17.) The ALJ, however, also found that Plaintiff can
12 perform a reduced range of light work, limited to lifting and carrying of 20 pounds occasionally
13 and six hours of standing, walking, or sitting in an eight hour workday. (AR 19.) The ALJ's
14 RFC also provides that Plaintiff "can perform simple routine work, not at a production pace" and
15 she can have occasional contact with supervisors, co-workers, and the public. (AR 20.) Based
16 on the above RFC, the ALJ found that Plaintiff could perform light unskilled work in the national
17 economy and is not disabled. (AR 25-26.)

18 Plaintiff, however, contends that she meets or equals Listing 14.02A for systemic lupus
19 erythematosus. She contends that the ALJ erred by not finding her disabled at step three of
20 the sequential process. The Court disagrees.

21 **A. Relevant Federal Law**

22 Social Security regulations provide that a claimant is disabled if he or she meets or
23 medically equals a listed impairment. 20 C.F.R. § 416.920(a)(4)(iii) ("If you have an impairment
24 that meets or equals one of listings . . . we will find that you are disabled"); 20 C.F.R. §
25 416.920(d) ("If you have an impairment(s) which . . . is listed in Appendix 1 or is equal to a
26 listed impairment(s), we will find you disabled without considering your age, education, and
27 work experience"). In other words, if a claimant meets or equals a listing, he or she will be
28 found disabled at this step "without further inquiry." Tackett v. Apfel, 180 F.3d 1094, 1099 (9th

1 Cir. 1999). There is no need for the ALJ to complete steps four and five of the sequential
2 process. Lewis v. Apfel, 236 F.3d 503, 512 (9th Cir. 2001).

3 The listings in Appendix 1 describe specific impairments considered “severe enough to
4 prevent an individual from doing gainful activity, regardless of his or her age, education, or work
5 experience.” 20 C.F.R. § 404.1525. An impairment that meets a listing must satisfy all the
6 medical criteria required for that listing. 20 C.F.R. § 404.1525(c)(3) (emphasis added). An
7 impairment cannot meet a listing based only on a diagnosis. Section 404.1525(d). Medical
8 equivalence will be found if the impairment “is at least equal in severity and duration to the
9 criteria of any listed impairment.” 20 C.F.R. § 404.1526(a). Medical equivalence is based on
10 symptoms, signs, and laboratory findings. 20 C.F.R. § 404.1529(d)(3). The ALJ, however, is
11 not required to discuss equivalency unless Plaintiff presents evidence of it. Burch v. Barnhart,
12 400 F.3d 676, 683 (9th Cir. 2005).

13 Plaintiff bears the burden of proving she meets or equals a Listing. Id.; 20 C.F.R.
14 § 416.920(a)(4)(iii).

15 **B. Analysis**

16 The ALJ considered all physical impairments, singly and in combination, under all the
17 Listings, including 14.02A. (AR 17-18.) The ALJ found that Plaintiff’s impairments do not meet
18 or medically equal the severity requirements of any Listing. (AR 18.) The ALJ observed, “No
19 treating or examining medical source has recorded objective clinical or diagnostic findings that
20 are the same as or medically equivalent to the criteria of any listed impairment.” (AR 18.)

21 Listing 14.02 is defined as follows:

22 14.02 Systemic Lupus erythematosus

23 A. Involvement of two or more organs/body systems, with:

- 24 1. One of the organs/body systems involved to at least a moderate
25 level of severity; and
- 26 2. At least two of the constitutional systems or signs (severe fatigue,
27 fever, malaise, or involuntary weight loss).

28 20 C.F.R. Part 404, Subpart P, Appendix 1.

1 Plaintiff contends that her lupus causes joint pain and chronic nephritis, satisfying the
2 requirement of two body systems. She also contends that her lupus affects her kidney
3 functioning to a moderate level of severity. She claims to satisfy paragraph A2 based on
4 fatigue and involuntary sustained weight loss. The record, however, does not support Plaintiff's
5 contentions.

6 Plaintiff did not meet her burden to prove involuntary weight loss. There is no evidence
7 of involuntary weight loss. Plaintiff's weight varied over the years within a 10 pound range with
8 a normal BMI. (AR 305-799.) In numerous records, Plaintiff's doctors found no involuntary
9 weight loss and repeatedly found no weight loss. (AR 305, 389, 391, 392, 445, 451, 462, 474,
10 477, 480, 483, 501, 516, 530, 535, 540, 549, 556, 566, 602, 693, 703, 715, 718, 753, 756, 772,
11 776, 784, 799.) Records of examinations cited by the Plaintiff as proof of weight loss even
12 state "no weight loss" (AR 756) and "negative for weight gain and weight loss" (AR 766).
13 Plaintiff fails to address this contrary evidence.

14 Nor is there any significant evidence of fatigue, much less "severe" fatigue. Plaintiff cites
15 two records evidencing "some fatigue" (AR 606) and fatigue (AR 756). The ALJ acknowledged
16 "intermittent" fatigue. (AR 22.) Otherwise, Plaintiff repeatedly reported no fatigue. (AR 305,
17 388, 391, 407, 445, 451, 462, 516, 549, 602, 753, 799.) Plaintiff fails to address this contrary
18 evidence. Severe fatigue is defined in Listing 14.00(c) as "a frequent sense of exhaustion that
19 results in significantly reduced physical activity or mental function." Plaintiff's medical records
20 do not reflect the "severe fatigue" required by 14.02A2.

21 Plaintiff, moreover, cites to no record evidence or physician opinion that her chronic
22 lupus nephritis affects her kidney functioning to a moderate level of severity. (JS 4:26-28.)
23 Doctors routinely found Plaintiff's condition stable with no flares and doing well. (AR 22, 529,
24 470, 472, 475, 478, 481, 482, 484, 568, 708, 789, 795, 702, 704, 721, 724, 758, 762, 765, 771,
25 787, 789, 795.) There were but two occasions between 2013 and 2017 when a lupus flare or
26 "suspected" lupus flare was noted. (AR 560, 563, 783.) Her physician in October 2014 stated
27 there was no evidence of systemic flares. (AR 22.) On numerous occasions, Plaintiff reported
28 feeling well and denied any flares. (AR 22.) Also, Plaintiff's nephrologist indicated her nephritis

1 was stable, her proteinuria had improved, and she had stable renal function. (AR 22.) Plaintiff
2 responded well to medications for her lupus and nephritis and was able to perform her activities
3 of daily living on an independent basis. (AR 22.) No physician expressed the opinion that
4 Plaintiff's lupus or nephritis was of a moderate level of severity.

5 Plaintiff did not carry her burden to show the required elements of Listing 14.02A.
6 Burch, 400 F.3d at 683. The record evidence does not support Plaintiff's claims of severe
7 fatigue, involuntary weight loss, or a moderate level of severity of one organ/body system, each
8 of which must be present to meet or equal Listing 14.02A.¹

9 The ALJ's step three finding that Plaintiff does not meet or equal a Listing is supported
10 by substantial evidence.

11 **II. THE ALJ'S RFC IS SUPPORTED BY SUBSTANTIAL EVIDENCE**

12 Plaintiff contends that the ALJ's RFC is incomplete because it does not contain any
13 limitation for her lupus flares. The Court disagrees.

14 **A. Relevant Federal Law**

15 The ALJ's RFC is not a medical determination but an administrative finding or legal
16 decision reserved to the Commissioner based on consideration of all the relevant evidence,
17 including medical evidence, lay witnesses, and subjective symptoms. See SSR 96-5p; 20
18 C.F.R. § 1527(e). In determining a claimant's RFC, an ALJ must consider all relevant evidence
19 in the record, including medical records, lay evidence, and the effects of symptoms, including
20 pain reasonably attributable to the medical condition. Robbins, 446 F.3d at 883.

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22
23 ¹ The Court rejects Plaintiff's contention that the ALJ did not adequately explain her
24 "conclusory" finding that Plaintiff does not meet or equal a Listing. The ALJ specifically observed
25 that "[n]o physician treating or examining physician has recorded objective clinical or diagnostic
26 findings that are the same as or medically equivalent to the criteria of any listed impairment." (AR
27 18.) The ALJ then discussed the medical evidence regarding Plaintiff's lupus and lupus nephritis
28 elsewhere in the opinion. (AR 22.) The fact that the ALJ did so is immaterial. Lewis, 236 F.3d
at 513 (Marcia v. Sullivan, 900 F.2d 172, 176 (9th Cir. 1990) simply requires an ALJ to discuss
and evaluate evidence that supports his or her conclusions; it does not specify that the ALJ must
do so in a specific section of the report); Kruchek v. Barnhart, 125 F. App'x 825, 827 (9th Cir.
2005); Harris v. Astrue, 2009 WL 801347, at *7 (N.D. Cal. Mar. 25, 2009)

1 **B. The ALJ's RFC Is Not Incomplete**

2 Plaintiff contends the ALJ should have included limitations for the episodic nature of her
3 lupus flares in the RFC, such as absences from work, time spent off-task, or a reduction in her
4 functional abilities during an active flare. The Court disagrees that added limitations were
5 necessary.

6 The ALJ gave due consideration to Plaintiff's lupus flares in the decision. (AR 22, 24.)
7 The ALJ acknowledged "intermittent" or "occasional" flares. (AR 22, 24.) The ALJ, however,
8 also noted that in October 2014 Plaintiff's physician found no evidence of systemic flares. (AR
9 22.) Plaintiff cites evidence of one diagnostically confirmed active flare in 2015 (AR 560, 563)
10 and one other flare, but two months later she felt fine with no joint pain (AR 775). The vast
11 majority of records, as noted above, show Plaintiff's lupus condition was stable with no flares.

12 The ALJ, moreover, specifically found that Plaintiff responded well to her medications,
13 which improved her condition. (AR 22.) Impairments that are controlled effectively with
14 medication are not disabling. Warre v. Comm'r of Social Sec. Admin., 439 F.3d 1001, 1006
15 (9th Cir. 2006).

16 The ALJ's RFC also is supported by State reviewing physicians Dr. Robert Jacobs and
17 Dr. David Subin who reviewed the record and opined Plaintiff could perform a range of light
18 work. (AR 23, 58, 60-62, 72.) The ALJ gave significant weight to their assessments, which did
19 not include any limitations regarding Plaintiff's lupus flares. (AR 23.) The ALJ also found these
20 opinions were consistent with the longitudinal evidence indicating Plaintiff did well on her
21 medications and she was able to perform activities of daily living independently. (AR 23, 22.)

22 Plaintiff disagrees with the ALJ's RFC, but it is the ALJ's responsibility to resolve
23 conflicts in the medical evidence and ambiguities in the record. Andrews v. Shalala, 53 F.3d
24 1035, 1039 (9th Cir. 1995). Where the ALJ's interpretation of the record is reasonable, as it is
25 here, it should not be second-guessed. Rollins v. Massanari, 261 F.3d 853, 857 (9th Cir.
26 2001); Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002) ("Where the evidence is
27 susceptible to more than rational interpretation, one of which supports the ALJ's decision, the
28 ALJ's conclusion must be upheld").

1 The ALJ was not required to include limitations in the RFC for lupus flares.

2 **C. The ALJ Properly Considered The Consulting**
3 **Psychological Examiner's Opinion**

4 Plaintiff also contends that the ALJ's RFC is incomplete because it fails to include
5 mental limitations assessed by consulting examiner Dr. Robin Rhodes Campbell, Ph.D. The
6 Court disagrees.

7 The ALJ determined that Plaintiff had the medically determinable severe impairment of
8 adjustment disorder with anxiety and depressed mood. (AR 17.) To account for that
9 impairment, the ALJ assessed these mental limitations: "she can perform simple, routine work,
10 not at a production pace; and she can have occasional contact with supervisors, co-workers
11 and the public." (AR 20.)

12 The ALJ gave "great weight" to the opinion of Dr. Campbell. (AR 23.) Aided by
13 diagnostic testing, Dr. Campbell found that Plaintiff had some memory impairment and some
14 difficulty maintaining sustained attention. (AR 23.) Dr. Campbell diagnosed adjustment
15 disorder with anxious and depressed mood. (AR 23.) She opined Plaintiff had moderate
16 impairment in the following areas: (1) her ability to understand, remember, and carry out
17 detailed instructions; (2) her ability to relate appropriately to the public, supervisors, and co-
18 workers; and (3) her ability to withstand stress and changes associated with an eight hour
19 workday and day-to-day activities. (AR 23.)

20 Plaintiff argues that the ALJ's RFC does not contain any limitations with the third
21 impairment noted above. The ALJ, however, did not reject Dr. Campbell's opinion. The ALJ
22 specifically states that Dr. Campbell's opinion (which would include all three moderate mental
23 impairments) was consistent with the longitudinal evidence.

24 As the ALJ explained, in light of Dr. Campbell's finding that Plaintiff had some memory
25 impairment and impaired concentration, Plaintiff was limited to performing simple, routine work.
26 (AR 24, 20.) Due to anxiety and Plaintiff's apparent impairment in sustained attention, she was
27 precluded from working at a production pace. (AR 24.) The ALJ also imposed limitations in
28 social interaction because of Plaintiff's statement that she gets mad easily. (AR 24.)

1 Additionally, at step two of the sequential process, the ALJ found moderate mental
2 limitations based on Dr. Campbell's opinions. (AR 18-19.) More specifically, Dr. Campbell
3 found that Plaintiff had moderate difficulties with concentration, persistence, and pace. (AR
4 18.) Dr. Campbell also found that Claimant had some deficits in attention and struggled to
5 persist in tasks presented to her. (AR 18.) The ALJ found that despite these moderate
6 limitations there was insufficient evidence that Plaintiff's ability to focus on work activities or
7 stay on task at a sustained rate independently was seriously limited. (AR 18.) The ALJ also
8 found that the evidence does not show that changes or increased demands have led to an
9 exacerbation of symptoms and signs of deterioration in Plaintiff's functioning. (AR 19.) Thus,
10 the ALJ did not ignore Dr. Campbell's opinion that Plaintiff had a moderate limitation in the
11 ability to withstand stress and changes in the workplace. Courts, moreover, have found that
12 moderate mental limitations like the ability to respond appropriately to stress and changes in a
13 usual workday are not per se disabling, nor do they preclude performance of jobs that involve
14 simple, repetitive tasks. Holland v. Colvin, 2016 WL 928665, at *3 (C.D. Cal. Mar. 4, 2016).
15 Similarly here, the ALJ's moderate impairment finding would be accommodated by the simple
16 routine work limitation in Plaintiff's RFC. (AR 20.) Indeed, here the simple routine work is
17 limited even further by the limitation, "not at a production pace." (AR 20.)

18 Other factors support the ALJ's RFC. The ALJ discounted Plaintiff's subjective symptom
19 allegations as "not completely consistent" with the totality of the evidence. (AR 20.) The ALJ
20 found that Plaintiff's subjective complaints were not comparable to the frequency or extent of
21 treatment sought. (AR 21.) Plaintiff denied ever receiving mental health treatment, was not
22 seeing a psychiatrist or therapist, and had never been hospitalized. (AR 21.) The ALJ found
23 that nowhere in the record is there a sufficient explanation for not seeking treatment and no
24 assertion of an inability to pay. An ALJ may consider the failure to seek treatment or lack of
25 treatment in evaluating credibility. Molina v. Astrue, 674 F.3d 1104, 1113-14 (9th Cir. 2012)
26 (failure to seek treatment is basis for discounting credibility); Tommasetti v. Astrue, 533 F.3d
27 1035, 1039 (9th Cir. 2008) (unexplained or inadequately explained failure to seek treatment is a
28

1 valid basis for discounting credibility). Plaintiff never addressed her lack of mental health
2 treatment.

3 Additionally, Plaintiff engaged in activities of living inconsistent with disability. (AR 20,
4 22, 24.) She performs light household chores, runs errands, shops, drives, cooks, and takes
5 care of her personal hygiene. (AR 20-21.) An ALJ may consider whether a claimant's daily
6 activities are inconsistent with disabling limitations. Bunnell v. Sullivan, 947 F.2d 341, 346 (9th
7 Cir. 1991). Plaintiff never addressed the ALJ's citation to and reliance on Plaintiff's inconsistent
8 activities. Nor did Plaintiff challenge the ALJ's discounting of Plaintiff's subjective symptom
9 allegations.

10 Plaintiff challenges the ALJ's RFC, but again it is the ALJ's responsibility to resolve
11 conflicts in the medical evidence and ambiguities in the record. Andrews, 53 F.3d at 1039.
12 Where the ALJ's interpretation of the record is reasonable, as it is here, it should not be
13 second-guessed. Rollins, 261 F.3d at 857; Thomas, 278 F.3d at 954.

14 The ALJ's RFC was not incomplete. It contains all appropriate mental limitations,
15 including moderate limitations in Plaintiff's ability to withstand stresses and changes in the
16 workplace.

17 * * *

18 The ALJ's RFC is supported by substantial evidence. The ALJ's RFC non-disability
19 determination is supported by substantial evidence and free of legal error.

20 ORDER

21 IT IS HEREBY ORDERED that Judgment be entered affirming the decision of the
22 Commissioner of Social Security and dismissing this case with prejudice.

23
24 DATED: October 21, 2019

25 /s/ John E. McDermott
JOHN E. MCDERMOTT
UNITED STATES MAGISTRATE JUDGE